

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Cardenas Analyst: Roger Lackey Bill Number: AB 83

Related Bills: See Prior Analysis Telephone: 845-3627 Amended Date: 06/30/99

Attorney: Patrick Kusiak Sponsor:

SUBJECT: Local Business License, Permit, Taxes & Fees/Prohibit Imposing On Writers, Musicians, Directors Or Other Creative Artists Who Work From Residence

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

X AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

X FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

X REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED December 9, 1998, STILL APPLIES.

OTHER - See comments below.

SUMMARY OF BILL

Under the Business and Professions Code, this bill would prohibit a city within a county of the first class from requiring that a person who is a writer, musician, director, or other creative artist obtain a business license or permit or pay a business tax or registration fee solely because that person receives income for work performed at or from the person's place of residence.

SUMMARY OF AMENDMENT

The June 30, 1999, amendments made grammatical changes to the legislative intent of the bill and also expanded the provision stating the section shall not be construed to limit a city's authority to adopt and enforce ordinances that define and regulate the operation of home-based businesses. However, the language of the amendment appears to prohibit a city from adopting or enforcing business or zoning ordinances by using a business's tax status or information contained in filings reported to state or federal tax collection agencies.

The May 27, 1999, amendments describe the author's intent to make uniform the municipal tax treatment of writers, musicians, directors and other creative artists who work from home and also describe that the provisions of this bill should not limit a city's authority to adopt or enforce ordinances that define certain home-based businesses.

The May 24, 1999, amendments would limit the application of this bill to cities within a county of the first class. Los Angeles is the only county of the first class in the state as defined in Section 28022 of the Government Code as a county having a population of 4 million or more.

Board Position:

<u> </u> S	<u> </u> NA	<u> </u> NP
<u> </u> SA	<u> </u> O	<u> </u> NAR
<u> X </u> N	<u> </u> OUA	<u> </u> PENDING

Department/Legislative Director Date

Johnnie Lou Rosas **7/13/1999**

The May 17, 1999, amendments would limit the application of this bill to a person who is a writer, musician, director, or other creative artist, and eliminated the requirement that the person could not file a fictitious business name statement or regularly solicit business from home.

Other than the amendments described above, the resolution of the implementation concern relating to the definition of "regularly," the creation of a new technical consideration, and the revised revenue estimate shown below, the department's analysis of the bill as introduced December 9, 1998, still applies.

Technical Considerations

This bill would be limited to "a county of the first class," which is not defined. The bill could more easily be interpreted if the term is defined. According to staff at the author's office, Part 5 of Chapter 2, Division 2, Title 3 of the Government Code contains the definition intended by the author.

Tax Revenue Estimate

The May 24, 1999, amendments and the recent enactment of AB 1105 impact the bill's revenue estimate. The May 24th amendments limit application of the bill from any city or county to a city within a county of the first class. AB 1105 (Stats. 1999, Ch. 67) removed the requirement that cities which maintain a computerized record-keeping system or which have access to such a system annually furnish the Franchise Tax Board (FTB) with information regarding taxpayers who pay city business license taxes.

Enactment of AB 1105 eliminated the state revenue loss component from AB 83, leaving only negligible revenue gains each year due to no city or county business license fees being deducted as business expenses. Estimates for the bill as introduced December 9, 1998, were minor gains in 2000-01 and 2001-02 and losses of \$1 million in 2002-03 and \$2 million in 2003-04.

Revenue gains from no city or county business license fees being deducted as business expenses would probably not exceed \$250,000 a year (assumes an average annual fee of \$100 and a marginal tax rate of 5% for 50,000 taxable writers, musicians, directors, and other creative artists). The number of home-based writers, musicians, directors, and other creative artists is assumed to be roughly equal to a quarter of the number of wage and salary workers in the motion picture industry in the Los Angeles-Long Beach metropolitan area.

BOARD POSITION

Neutral.

At its July 7, 1999, meeting, the Franchise Tax Board voted 2-0 to take a neutral position on this bill as amended May 27, 1999.